DIRECT TESTIMONY OF JOSEPH AYALA ON BEHALF OF RHYTHMS LINKS, INC. IN REHEARING DOCKET NO. 00-0393

I. INTRODUCTION

1. Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Joseph Ayala. I am EDI/OSS Manager for Rhythms Links, Inc. ("Rhythms"). My business address is 9100 E. Mineral Circle Denver, CO 80112.

2. Q. PLEASE DESCRIBE YOUR EDUCATION AND RELEVANT WORK EXPERIENCE.

A. I earned a Bachelor's Degree in Communications from Loyola Marymount University. I have been employed by Rhythms since September 2000. I am responsible for EDI and OSS Change Management for the territories in which Rhythms conducts business. Prior to this time, I worked at NightFire Software from January 2000 until September 2000. NightFire is a telecommunications software vendor that develops electronic data interchange (EDI) applications that enable CLECs to engage in preordering and ordering with ILECs. As a Supplier Relations Analyst, I participated in ILEC change management processes and was responsible for the project management of OSS release testing. Before joining NightFire, I worked at Pacific Bell. From March 1997 through September 1998, I was a contractor responsible for the development of business rules that would enable CLECs to order products and services from Pacific Bell. From September 1998 through August 2000, I was employed by Pacific Bell as a Business Process Manager responsible for the writing of internal methods and procedures. The last role I held at Pacific Bell was that of Area Manager-Performance Improvement

within the Local Service Center. In this role, I was responsible for implementing processes that would enable Pacific Bell to better serve the CLEC community.

3. Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

A. My testimony addresses the OSS issues in this rehearing. Although I will not repeat my testimony submitted in the proceeding below, I do respond to some of the assertions that Ameritech-Illinois' makes in its direct testimony filed in this rehearing. In addition, I respond to questions posed by Commissioner Squires.

II. AMERITECH-ILLINOIS' OSS OBLIGATIONS

4. Q. PLEASE DEFINE THE OPERATIONS SUPPORT SYSTEMS ("OSS") COVERED IN YOUR TESTIMONY.

A. The FCC defines OSS broadly to include records, mechanized backend systems and databases (and the information contained therein); and gateways and interfaces used to support pre-ordering, ordering, provisioning, testing and maintenance and billing for DSL services.[1] The ILECs' OSS is used to support five functional processes, each relating to an aspect of providing DSL service to an end-user: Pre-Ordering, Ordering, Provisioning, Testing/Repair and Maintenance, and Billing.

5. Q. DOES AMERITECH-ILLINOIS DEFINE OSS IN THE SAME WAY?

A. No. Despite the clear mandate of the FCC's UNE Remand Order Ameritech witness Mr. Waken repeats SBC-Ameritech's prior incorrect position that OSS's

[1] UNE Remand Order, ¶425.

comprised of only gateways.[2] It is inexplicable to me why Mr. Waken takes this position given the clear language in the Order and the clear rejection of such position by the Hearing Examiner and the Commission in the hearing below. In that hearing SBC-Ameritech's OSS witness, Ms. Robin Jacobson, took exactly the same incorrect position as Mr. Waken does here..

6. Q. WHAT TYPE OF OSS INFORMATION DOES THE FCC REQUIRE SBC-AMERITECH TO PROVIDE TO CLECS?

A. It is my understanding, based on discussions with counsel, that SBC-Ameritech is legally obligated to give CLECs non-discriminatory access to all OSS required to support line sharing.[3] Specifically, the FCC requires that SBC-Ameritech must provide CLECs access to all loop provisioning information that "exists anywhere within the incumbents' back office and can be accessed by any of the incumbent LEC's personnel."[4] The Hearing Examiner and the Commission correctly determined in the hearing below (and twice before that in the Rhythms/Covad line sharing arbitration with SBC-Ameritech (Docket No. 00-0312/0313) that SBC-Ameritech must provide CLECs with all information in any of these OSS back office systems and databases that is useful in provisioning line shared DSL.

7. Q. WHAT TYPE OF ACCESS IS SBC-AMERITECH REQUIRED TO PROVIDE TO CLECS?

A. The FCC Order mandates that CLECs have access to loop provisioning information in the same manner and in the same timeframe as such information is

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2 Waken Direct, at 4.
3 UNE Remand Order, ¶ 425.
4 *Id.* ¶430.

available to SBC-Ameritech's internal operations or affiliates.[5] Thus if SBC-Ameritech provides direct access to provisioning information to any of its own employees (which Mr. Waken admits it does) then SBC-Ameritech must provide the same type of access to CLECs. Based on a thorough record below the Hearing Examiner and the Commission correctly concluded that CLECs must have direct access to SBC-Ameritech's OSS.

8. Q. DOES AMERITECH-ILLINOIS OPPOSE PROVIDING CLECS WITH DIRECT ACCESS TO ITS OSS?

A. Yes. SBC-Ameritech opposes giving CLECs the same direct access that it gives itself. Mr. Waken repeats the same arguments that the Hearing Examiner and the Commission rejected below in an effort to deny CLECs direct access. Although my counsel has informed me that the Hearing Examiner warned parties not to rehash the same arguments that were presented in the hearing below, I believe it is necessary to address at least some of the incorrect statements in the testimony of Mr. Waken and Mr. Mitchell.

III. AMERITECH-ILLINOIS' CLAIMS REGARDING PROPRIETARY INFORMATION IN OSS BACK END SYSTEMS AND DATABASES ARE INCORRECT

9. Q. HAS AMERITECH-ILLINOIS OFFERED ANY NEW EVIDENCE THAT DEMONSTRATES THE COMMISSION SHOULD REVERSE ITS RULING GRANTING CLECS DIRECT ACCESS?

A. No. Mr. Waken and Mr. Mitchell merely expand on the same arguments raised by SBC-Ameritech and rejected by the Hearing Examiner and the Commission in the hearing below, or provide new unsupported speculations. The primary

[5] *Id.* ¶ ¶427-428.

argument raised by Mr. Waken and by SBC-Ameritech's OSS witness in the hearing below is that direct access is problematic because the CLECs could access purportedly "proprietary" information.

10. Q. DO THE AMERITECH-ILLINOIS WITNESSES PROVIDE THE INFORMATION SOUGHT BY COMMISSIONER SQUIRES REGARDING WHAT INFORMATION IN ITS OSS IS CONISDERED PROPRIETARY?

A. No. Mr. Waken fails to respond to Commissioner Squires' request to provide a detailed description of OSS information, denoting which information is proprietary. Rather than providing a "detailed description" of the information contained in SBC-Ameritech's backend systems, Mr. Waken provides a list of high level categories of information.[6]

11. Q. IN WHAT WAY IS MR. WAKEN'S RESPONSE INADEQUATE?

A. Mr. Waken provides only a generalized assertion that the ILEC's systems contain proprietary information, rather than providing a detailed accounting of information that has clearly been designated and protected as proprietary in SBC-Ameritech's back office systems and databases. Mr. Waken states that "SBC considers *much* of the information in those systems to be proprietary."[7] The lack of detail in Mr. Waken's testimony is puzzling. If SBC-Ameritech believes that it has information that is so sensitive, it is only logical that SBC-Ameritech would have a detailed and rigorous inventory of such information, complete with security measures. Without any detail, the Commission is deprived of the

[6] Waken Direct, at 5:20-6:2.
[7] Waken Direct, at 9:24-25.

opportunity to devise a method to screen off truly proprietary information from CLECs using direct access. Instead, Mr. Waken and SBC-Ameritech would have the Commission deny CLECs direct access to every bit of information in every back office system and database, whether proprietary or not.

12. Q. WHAT DETAILS DOES MR. WAKEN PROVIDE ABOUT INFORMATION IN AMERITECH-ILLINOIS' SYSTEMS THAT MIGHT BE CONSIDERED PROPRIETARY?

A. Mr. Waken does not provide a list of proprietary information, but instead provides only a description of three categories of information that SBC might consider to be proprietary: internal management information for SBC-Ameritech, information regarding wholesale and retail customers, and information "that could be used to compromise the integrity of the network and the security of end-use customers."[8] This testimony provides nothing new. Mr. Waken fails to address Commissioner Squires question, and instead rehashes the same baseless regulatory posturing that SBC-Ameritech made against direct access in the case below. Merely having a new witness make the same incorrect arguments does not make them any more persuasive. The Commission should give Mr. Waken's testimony no weight, and should uphold its ruling giving CLECs direct access.

13. Q. WHY IS AMERITECH-ILLINOIS' REPEAT ARGUMENT THAT ITS OSS CONTAIN INTERNAL MANAGEMENT INFORMATION INVALID?

A. Mr. Waken does not explain what he means by internal management information for SBC-Ameritech, so it is impossible to evaluate whether such information would be proprietary or not. However, if Mr. Waken means information such as

[8] Waken Direct, at 9:23-32.

employment records, tax information or property inventories, his argument is completely misleading and irrelevant. CLECs are not seeking access to such information. CLECs are only seeking access to back office systems and databases that contain information that is useful in provisioning line shared DSL service – information on outside plant and central office equipment. Surely SBC-Ameritech and Mr. Waken should be able to identify precisely which back office systems and databases contain such information. It strains credibility to think that truly internal management information is not kept separately from operational or outside plant information, or that SBC-Ameritech cannot identify which systems contain which type of information.

14. Q. WHY IS AMERITECH-ILLINOIS' REPEAT ARGUMENT THAT ITS OSS CONTAIN CONFIDENTIAL INFORMATION ABOUT OTHER CARRIERS INVALID?

A. Mr. Waken would have the Commission deny CLECs direct access on the basis that they could access information regarding trunks and circuits of other carriers. This argument was also raised and discredited in the hearing below. As was explained below, inquiries to SBC-Ameritech's back office systems and databases must be done for a particular circuit or address. Unless a CLEC knew in advance that such address was served by a competitor, the CLEC would not know to look that address up. Furthermore, even if CLECs were able to view information about circuits serving competitors' customers, Ms. Jacobson admitted in the hearing below that SBC-Ameritech employees currently have access to this same information.

Thus, if the Commission should be concerned about any company engaging in "data mining," against competitors, it should be worried about SBC-Ameritech, not CLECs. Lest the Commission think that Rhythms is engaging in scare tactics or hyperbole, Rhythms has information to substantiate its concern. Rhythms has information indicating that SBC-Ameritech may have the capability not only to data mine, but to use such data to track and monitor the activities of CLECs. I discuss below, in detail, the specific documents and systems that demonstrate these capabilities.

15. Q. WHY IS AMERITECH-ILLINOIS' REPEAT ARGUMENT THAT CLECS WOULD HAVE DIRECT ACCESS TO "HIGH SECURITY" INFORMATION INVALID?

A. Mr. Waken urges the Commission to deny CLECs direct access on the basis that they might misuse information they obtain. Such fictitious "security risks" were thoroughly discredited in the hearing below, and I believe it is completely inappropriate for Mr. Waken to repeat such unsubstantiated rumor. Mr. Waken states that SBC-Ameritech'ss back office systems and databases contain "high security information" such as fiber and cable loops used to provide service to airports, police and fire stations, and customer notations to service personnel such as "daughter is home alone but will let you in."[9] Mr. Waken intimates that CLECs might use such outside plant information to harm customers. Ms. Jacobson made the same unfounded allegation in her testimony below, but on cross examination admitted that she had no evidence of any sort that any CLEC

[9] Waken Direct, at 10:6-10; 13:22-14:4, 13:4-11(alleging that CLECs could use information regarding the terminal at a customer's premises to make unauthorized long distance calls).

had ever carried out an illegal act such as cutting a cable, and also acknowledged that a "disgruntled" ILEC employee could use loop deployment information in the same improper way.[10] Mr. Waken offers no evidence of any improper behavior by CLECs. Thus, Mr. Waken "testimony" amounts to nothing more than wild speculation presented as a scare tactic to mislead the Commission into denying CLECs access to information to which they are legally entitled.

IV. COMMISSIONER SQUIRE'S QUESTION REGARDING INFORMATION INCLUDED IN AMERITECH-ILLINOIS' OSS

16. Q. CAN YOU PROVIDE A DETAILED DESCRIPTION OF THE INFORMATION CONTAINED IN ALL OF THE BACK OFFICE SYSTEMS AND DATABASES OF AMERITECH-ILLINOIS AS REQUESTED BY COMMISSIONER SQUIRES?

A. No. Rhythms, like Commissioner Squires, has sought to determine what information SBC-Ameritech has that would be useful for provisioning line shared DSL services, and in which back office systems and databases it resides. SBC-Ameritech has not provided such a list, and CLECs have no way of knowing all of the loop provisioning information that SBC-Ameritech has or where it is contained in SBC-Ameritech records, backend systems and databases. Rhythms learned the extent of this problem when SBC-Ameritech's OSS witness in the hearing below, Ms. Jacobson, testified in Texas. SWBT, like Ameritech has agreed to provide CLECs with only 45 data fields from all of its OSS backend systems and databases. However, Ms. Jacobson testified in Texas that just one of

[10] Ms. Jacobson acknowledged that any security risk posed by access to customer data such as the location of a phone line serving an airline or police station applies equally to ILEC and CLEC employees; Hearing Tr. (Jacobson) at 974:22-975:11.

SBC's OSS (LFACS) has more than 100 data fields.[11] On cross- examination in the Texas line sharing hearing, Ms. Jacobson admitted that CLECs are "not getting the access to all of the information" in SWBT's engineering records, plant records and back-office systems.[12] She also stated that the 45 data elements merely represents the information that CLECs were able to identify as pertinent to qualifying a loop during the POR collaboratives.[13] CLECs have no way of knowing what other data are in LFACs, or any other OSS, beyond the limited list of information SWBT has agreed to provide. Accordingly, the audit that CLECs have requested in this proceeding is essential to determine what OSS SBC-Ameritech provides itself and to its affiliates and therefore the OSS CLECs are legally entitled to access.

17. Q. WHAT AMERITECH-ILLINOIS OSS BACKEND SYSTEMS AND DATABASES DO YOU BELIEVE CONTAIN PROVISIONING INFORMATION TO WHICH CLECS ARE ENTITLED?

A. We should be able to obtain access to any OSS backend systems and databases that may contain data on outside plant and central office equipment that CLECs need to provision line shared DSL service. Although I am not familiar with all of the Ameritech-Illinois' OSS, Mr. Waken acknowledges SBC-Ameritech has all of the following backend systems: ARES, LEAD/LEIS, LFACS/FACS, LMOS, MARCH, PLAN, SOAC, SWITCH-SWITCH/DLE, FOMS/FUSA, TIRKS, WFA/C, WFA/DI and WFA/DO.[14] Although Rhythms is currently receiving provisioning information from at least some of these systems, Rhythms wants to

[11] Texas Hearing Tr. (Jacobson), at 813:11-13.
[12] Texas Hearing Tr. (Jacobson), at 795:17-796:2.
[13] *Id.*
[14] Waken Direct, at 4-5.

ensure that it has a permanent right to obtain such information and that SBC-Ameritech will continue to provide new types of provisioning information as it deploys new network architectures such as Project Pronto, BPON, VTOA and fiber to the curb.

18. Q. IS THERE ANY REASON TO BELIEVE THAT THERE ARE OTHER OSS BACK OFFICE SYSTEMS AND DATABASES THAT CONTAIN INFORMATION THAT WOULD BE USEFUL FOR PROVISIONING LINE SHARED DSL SERVICE?

A. Yes. In the hearing below, SBC-Ameritech witness Ms. Robin Jacobson testified that she was unsure whether the ILEC would inventory information regarding Project Pronto in existing OSS or in new OSS.[15] Mr. Waken confirms in his testimony that SBC-Ameritech has, at least in some instances, developed new OSS to house Project Pronto information. Mr. Waken identifies a back office system called PRONTO Construction Administration Tool ("PCAT") used to identify, prioritize and track the status of upgrading remote terminals for Project Pronto.[16] Furthermore, in Texas Rhythms learned that SWBT is developing a new outside plant system called "SMART" to inventory spare fiber facilities in the Project Pronto architecture.[17] Information from both of these systems is relevant to provisioning line shared DSL service because the FCC has mandated that line sharing UNEs be provided over both all-copper and fiber-fed NGDLC loops (*i.e.*, Project Pronto).[18]

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[15] Hearing Tr. (Jacobson), at 912:6-9; 913:1-5.
[16] Waken Direct, at 4.
[17] Rhythms Texas Exh. 37, at 1.
[18] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* Third Report and Order in CC Docket No. 98-147 Fourth Report and Order in CC Docket No. 96-98 (rel. Dec. 9, 1999) ("Line

(Continued...)

19. Q. IS THERE A WAY FOR CLECS AND THE COMMISSION TO DETERMINE WHAT OTHER OSS CONTAIN INFORMATION USEFUL FOR PROVISIONING LINE SHARED DSL OVER COPPER AND PROJECT PRONTO LOOPS?

A. Yes. The Commission should uphold its decision in the case below requiring SBC-Ameritech to open its back office systems and databases to an audit by CLECs.

20. Q. DIDN'T CLECS HAVE AN OPPORTUNITY TO AUDIT AMERITECH-ILLINOIS' BACK OFFICE SYSTEMS AND DATABASES BEFORE?

A. Yes. In October 2000, two CLECs (Rhythms and Covad Communications Company) were allowed to audit some of SBC-Ameritech's OSS. However, that audit apparently did not cover all of SBC-Ameritech's relevant systems because Rhythms was unaware of PCAT until reading Mr. Waken's testimony filed in June. Likewise, Rhythms has had no opportunity to audit SMART. An additional audit is also warranted because SBC-Ameritech failed to provide all of the documentation needed by the CLECs to understand fully the operations of, and to interpret the information contained in, the back office systems and databases for the audit conducted last fall.

V. COMMISSIONER SQUIRES' QUESTION REGARDING GATEWAYS VERSUS DIRECT ACCESS

21. Q. MR. WAKEN AND MR. MITCHELL STATE THAT CLEC ACCESS TO PROVISIONING INFORMATION IS NOT LIMITED OR FILTERED DUE TO SBC-AMERITECH'S USE OF GATEWAYS. DO YOU AGREE?

(...Continued)
Sharing Order"); and *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* CC Docket Nos. 98-147 and 96-98, FCC 01-26 (rel. Jan. 19, 2001) ("Line Sharing Order on Reconsideration").

A. No. Although Mr. Waken states on pages 20-12 of his testimony that SBC-Ameritech does not limit the information that CLECs can access, I do not agree. Mr. Waken himself states that gateways do not store information.[19] Rather, information useful for provisioning DSL services are contained in SBC-Ameritech's back office systems. Therefore, logically, if CLECs are restricted to obtaining provisioning information only through gateways, they clearly will not have access to the totality of information available to SBC-Ameritech's employees.

Furthermore Mr. Waken testifies that gateways accumulate information from numerous back end systems and make the information available to CLECs.[20] However, SBC-Ameritech is selecting the information that the gateway accumulates and Mr. Waken states that only information "that is available and required" is provided to CLECs.[21] It is not clear what Mr. Waken means by "required" but as was clearly demonstrated in the hearing below, SBC-Ameritech's OSS witness Ms. Jacobson had a greatly circumscribed notion of what information was "required" when compared to the FCC's UNE Remand Order. For example, Ms. Jacobson, Mr. Waken and Mr. Mitchell would restrict CLEC access only to information available to SBC-Ameritech'ss retail operations.[22]

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19 Waken Direct, at 6:4-5.
20 Waken Direct, at 4.
21 Waken Direct, at 5.
22 Waken Direct, at 6:19-20; 8:13-18 ("Rather, as Mr. Mitchell describes in his testimony, retail sales representatives utilize the same or comparable OSS interfaces as customer CLECs, and are not granted access to the SBC-Ameritech Back Office Systems that contain loop qualification information."); Mitchell Direct, at 8-9, 21-22.

22. Q. IS THERE ANY OTHER EVIDENCE THAT CLECS DO NOT RECEIVE ALL AVAILABLE INFORMATION THROUGH GATEWAYS?

A. Yes. Mr. Waken admits indirectly that gateways screen out information while arguing that the Commission not try to determine whether a process could be developed to screen truly proprietary information from CLECs if they had direct access. He states that "any enhancements made to the back office systems to permit direct access, yet protect confidential information in those systems, would simply be repetitive of the capabilities built into the gateways."[23] Thus, Mr. Waken is admitting that the gateways CLECs are currently forced to use screen out purportedly proprietary information. The problem is that SBC-Ameritech and Mr. Waken have taken such an overly broad position on what constitutes "proprietary" information that data to which CLECs are entitled are withheld. Although I do not know the full extent of information that may not be accessible through gateways, Mr. Waken's testimony provides some indication. Mr. Waken states that information such as identification of loops serving an airline is considered to be proprietary. However if a CLEC wants to provide line shared DSL service to an airline, the CLEC must be allowed to determine which loops serve the airline and the technical characteristics of those loops. CLECs are entitled to such information to determine what type of DSL may be supported on a customer's loops or to request a more suitable loop through the line and station transfer process. Thus Mr. Waken's assertion that "direct access to SBC-Ameritech's back office systems would not provide CLECs with any additional

[23] Waken Direct, 14:14-17.

information than they already receive via SBC-Ameritech's OSS, GUI and EDI interfaces" is clearly incorrect.[24]

23. Q. ARE YOU AWARE OF ANY EVIDENCE THAT SBC ILECS HAVE PROVIDED THEIR ADVANCED SERVICES AFFILIATE WITH DIRECT ACCESS TO PROVISIONING INFORMATION IN THEIR OSS BACK END SYSTEMS OR DATABASES?

A. Yes. Rhythms learned in Texas, that the personnel of SBC-Ameritech's sister operating company Southwestern Bell Telephone Company ("SWBT") and SWBT's advanced services affiliate had access to more loop provisioning information than CLECs are permitted to access there. Specifically, SWBT's affiliate, ASI, had direct access to loop provisioning information to at least SWBT's TIRKS and WFA systems in the last year.[25] It is not clear whether SBC-Ameritech's affiliate AADS has had similar access. However, it is reasonable to assume that AADS will have direct access to such provisioning information in the future.

24. Q. WHY DO YOU BELIEVE THAT AADS MAY HAVE DIRECT ACCESS TO PROVISIONING INFORMATION IN THE FUTURE?

A. There is reason to believe that SBC will absorb its advanced services affiliates back into its ILEC operational unit before the end of the year. Under the SBC/Ameritech Merger Order Conditions, SBC was automatically allowed to discontinue the use of a separate affiliate, at the latest, 42 months after the date of

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[24] Waken Direct, at 15:6-8.

[25] ASI had direct read-only access to TIRKS from May to December 2000. Rhythms Texas Exh. 70 (Narrative Responses to RFI 4-7 and 4-10). ASI had direct access to WFA during all of 2000. Rhythms Texas Exhibits 31A (Bates 035976-035995) and 32A (Bates 037201) also denote a number of other OSS to which ASI has access.

the Merger Order (*i.e.*, April 2003).[26] Further, it is my understanding that on January 9, 2001, the D.C. Circuit Court of Appeals issued a decision vacating the Merger Order's separate affiliate requirement.[27] In fact, SBC/Ameritech officials have already publicly announced that the continuation of a separate data affiliate is in doubt. Immediately following release of the court order, Jim Ellis, Senior Executive, Vice President and General Counsel of SBC Communications, issued a statement that SBC could now legally "reabsorb" the "separate [data] affiliate...back into the telephone company" and would "be looking at the option of bringing the separate subsidiary back into the telephone company."[28]

Since that initial announcement, SBC has continued to indicate that it is actively considering discontinuing use of a separate affiliate to provide advanced services. In California, SBC-Ameritech's sister operating company Pacific Bell has told the California Public Utilities Commission that "SBC is evaluating the economic, regulatory and legal implications of reintegrating the advanced services operations of ASI into Pacific and the other SBC incumbent LECs."[29] Pacific indicated that a decision regarding such reintegration could occur as soon as September 1, 2001. Thus, the future of an advanced services affiliate for SBC is in doubt, and the Commission should assume that if reabsorbed, employees of AADS and ASI will have direct access to all available OSS provisioning

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[26] Merger Order, Appendix C, ¶12.

[27] *Association of Communications Enterprises v. FCC,* No. 99-1441, (D.C. Cir. 2001) and clarification (Jan. 18, 2001), vacating separate affiliate requirement in Merger Order.

[28] SBC Press Release, Statement of Jim Ellis, January 9, 2001, provided as Attachment A to Rhythms' Initial Brief.

[29] Motion of Pacific Bell (U 1001 C) Concerning the Status of Its Application and Proposing Further Procedural Steps, Application 00-01-023, May 7, 2001, at 2, Attachment JA-1 to this testimony.

information in SBC-Ameritech's back end systems and databases. CLECs therefore must have the same access to information in the same manner.

25. Q. ARE YOU AWARE OF ANY EVIDENCE THAT DIRECT ACCESS PROVIDES SBC-AMERITECH AND ITS AFFILIATE OSS FUNCTIONALITY TO ANALYZE LOOP DATA THAT IS NOT AVAILABLE TO CLECS?

A. Yes. Based on information that Rhythms learned from the Texas line sharing proceeding, it is my understanding that SWBT has the ability to monitor and analyze CLEC purchases of loops by compiling information in its backend systems and databases.[30] It follows that SBC-Ameritech, just like its sister-company SWBT has access to extensive capabilities to analyze SBC-Ameritech loop plant for provision of DSL services, whether provided on line-shared or stand alone loops. In Texas, SWBT produced a document from Telcordia detailing a new software capability that allows ILEC employees using the LFACS back end system to take advantage of their ability to view all loop data in their backend systems and databases to track and monitor the activities of CLECs.[31] The software modifies the LEIS/LEAD, SOAC and LFACS systems to allow the identification of and tracking of facilities that are purchased as UNEs by CLECs.[32] This capability allows ILECs to "monitor and analyze the impact of the

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30 Texas Hearing Tr. (Jacobson), at 750:2-12; 763:14-16; 770:6-12 (confirming that SWBT employees have access to loop information on all carriers, in its databases and back end systems, including LEIS/LEAD, SOAC, and LFACS, the systems for which the CLEC monitoring software was designed).

31 *Id.*

32 Rhythms Texas Exh. 19 (Bates 003914-003930), SOAC/DSS Requirements for LEIS/LEAD Release 14.1 and LFACS Release 24.0 Enhancements to Support Loop Unbundling, at 3. All of the material discussed in this section was declassified by agreement when Telcordia, the copyright owner of the document and software, waived confidential treatment of the portions of the document herein cited. *See* letter from Mr. Rex Van Middlesworth to Mr. Steve Bowen, dated Dec. 5, 2000 and excerpts from a post-hearing conference transcript in Texas Docket 22469 in which ALJ Mason confirmed that some portions of the Telcordia document were designated non-confidential in an agreement with Rhythms.

CLEC's involvement in the ILEC's region."[33] The document goes on to state that the benefit of the software modification is "to build a historical reports database which will allow the ILEC to develop market and engineering strategies" based on data in LFACs.[34] Indeed, SWBT has apparently used a special "tag" to denote CLEC loops so that they can be traced. The document states:

> The LEIS/LEAD system is being enhanced in Release 15.0 to provide reporting identifying the geographical areas targeted by other service providers. The LEIS/LEAD system will be enhanced to build a historical records database which will allow the ILEC to develop market and engineering strategies. LFACS will be used by the LEIS system as a data source. This feature will allow SOAC to send the appropriate tags and values from the service order to LFACS which will allow the LEIS/LEAD system to monitor and analyze the impact of the CLEC's involvement in the ILEC's region.[35]

Further, the purpose of the modification to LEIS/LEAD is stated even more bluntly in another Telcordia document. That document, entitled "LEIS/LEAD Detailed Requirements to Support Loop Unbundling," states:

BEGIN CONFIDENTIAL*

[36]

***END CONFIDENTIAL**

26. Q. ARE YOU AWARE OF ANY OTHER EXAMPLES OF OSS FUNCTIONALITY AVAILABLE TO ILECS?

A. Yes. We also learned in Texas that SWBT has access to OSS functionality that allows it to analyze and determine the availability and technical characteristics of equipment and facilities in its loop plant. Such information is inventoried in its

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[33] Rhythms Texas Exh. 19 (Bates 003914-003930), at 4.

[34] *Id.* SWBT is presumptively using this software feature now, since SWBT produced the document to Rhythms in response to Rhythms Texas RFI 3-42, which asked for a detailing reporting of all OSS modifications being made to support line sharing.

[35] Rhythms Texas Exh. 19A (Bates 003914-003930), §2.3.

[36] Rhythms Texas Exh. 23A (Bates 003752-003899), at § 2.1

backend systems and databases, and by using functionality referred to as reports and inquiries, SWBT can search for and analyze "a wide range" of specific data on its loop plant that may be used to assist in provisioning advanced services.[37] As such, we believe that SBC-Ameritech may have access to this equivalent OSS functionality to which it has denied CLECs access.

27. Q. MR. WAKEN STATES AT PAGES 15-22 OF HIS TESTIMONY THAT THE COMMISSION SHOULD DENY DIRECT ACCESS BECAUSE GATEWAY ACCESS TO PROVISIONING INFORMATION THROUGH A GATEWAY IS EASIER THAN DIRECT ACCESS. DO YOU AGREE?

A. No. Mr. Waken is incorrect. As I mentioned, Rhythms representatives observed SBC-Ameritech employees quickly and easily accessing an enormous range of provisioning information via direct access through a personal computer during an audit last fall. The process they observed was very efficient. Furthermore, it is irrelevant whether SBC-Ameritech's retail operations use gateways or whether Mr. Waken thinks it might be easier for CLECs to access SBC-Ameritech's back office systems and databases through a gateway than through direct access. If SBC-Ameritech makes such access available to any of its own employees, it must make such access available to CLECs under the requirements of the UNE Remand Order.

28. Q. MR. WAKEN STATES AT PAGES 22-27 OF HIS TESTIMONY THAT THE COMMISSION SHOULD DENY DIRECT ACCESS BECAUSE IT WOULD BE EXPENSIVE FOR AMERITECH-ILLINOIS TO MODIFY TS OSS TO ALLOW DIRECT ACCESS. DO YOU AGREE?

[37] Rhythms Texas Exh. 40 (Bates 031325-0031332), at 9-4 to 9-6, 10-2; Exh. 47 (Bates 034235-034507), at 2-5 to 2-6.

A. No. As stated above SBC-Ameritech employees achieve direct access to OSS information by using a standard personal computer and terminal emulation software. I can think of no reason that CLEC access to proprietary information cannot be fully handled by assigning CLECs passwords that prevent them from accessing systems that contain truly proprietary information such as employment records. Furthermore, it is difficult to assess Mr. Waken's claims since he provides no technical description of actual changes that would be needed and no cost support. Mr. Waken's statements regarding any costs to SBC-Ameritech's OSS due to direct access are merely speculative.

29. Q. ARE YOU AWARE OF ANY INCUMBENT CARRIER THAT ALLOWS CLECS TO DIRECTLY ACCESS ITS OSS?

A. Yes. I am aware that British Telecom the incumbent local exchange provider n the U.K. allows CLECS to directly access its OSS not only to obtain information but also to enter information into its OSS back office systems and databases. I want to be clear that Rhythms is seeking much less. Rhythms and other CLECs merely seek read-only access to the ILEC's OSS.

30. Q. AT PAGE 15 MR. WAKEN AND AT PAGES 11-12 AND 47 MR. MITCHELL RESPOND TO COMMISSIONER SQUIRES' QUESTION REGARDING BENEFITS OF DIRECT ACCESS TO CLECS BY CLAIMING THERE ARE NONE. DO YOU AGREE?

A. No. In addition to providing access to the entire range of provisioning data available to SBC-Ameritech's employees, direct access would benefit CLECs by having immediate access to new information that SBC-Ameritech enters into its databases. Currently, CLECs cannot get such information through gateways until the ILEC issues a new version of its gateway software that CLECs are able to

install and access without errors. With direct access, CLECs would be able to obtain such information immediately. Further, direct access to information with real time query capabilities will be faster than access to information through gateways and GUIs.

31. Q. DO YOU AGREE WITH MR. WAKEN'S TESTIMONY ON PAGE 18 THAT DIRECT ACCESS WOULD BE SLOWER THAN ACCESS TO PROVISIONING INFORMATION THROUGH GATEWAYS?

A. No. Mr. Waken claims that information obtained via direct access would take 15 to 20 minutes. During the audit by Rhythms representatives last fall, information from SBC-Ameritech's back office systems and databases was returned within a few seconds. The audit was performed during business hours over three different days. Thus, I believe the audit took place under normal business circumstances and gave an accurate indication of response times.

32. Q. MR. MITCHELL CLAIMS ON PAGE 12 OF HIS TESTIMONY THAT DIRECT ACCESS TO AMERITECH-ILLINOIS' BACK END SYSTEMS AND DATABASES BY CLECS COULD CAUSE THE SYSTEMS TO FAIL. DO YOU AGREE?

A. Absolutely not. Mr. Mitchell is merely rehashing a specious argument raised by SBC-Ameritech in the hearing below that was rejected by the Hearing Examiner and the Commission. Because this issue has already been decided, I will address only the most misleading of Mr. Mitchell's claims here. First, Mr. Mitchell states that allowing CLEC direct access will result in more queries to the system.[38] This claim is untrue. As Mr. Mitchell acknowledges, CLECs are launching queries for

[38] Mitchell Direct, at 12.

information into these systems now, albeit through a gateway.[39] Allowing CLECs to obtain OSS information directly would not increase the number of inquiries, it would merely change the originator of the queries.

Second, Mr. Mitchell attempts to use the same scare tactic as Ms. Jacobson did in the hearing below by claiming that CLEC direct access could cause SBC-Ameritech's systems to crash.[40] Such a claim is completely unsupported in the evidence below, and Mr. Mitchell provides no evidence regarding the total capacity of SBC-Ameritech's OSS to handle simultaneous transactions, nor any evidence that SBC-Ameritech's systems have ever been in danger of crashing due to the volume of CLEC queries. In fact, in Texas, we learned that, SBC's advanced service affiliate ASI had direct, read-only access to SWBT's TIRKS from May to December 2000. In Texas, ASI has been routinely processing thousands of orders, [41] and yet, there is no evidence ASI's access to TIRKS caused any type of performance problems, much less system failures during the eight months ASI was accessing TIRKS.

Indeed, Mr. Mitchell's claim that SBC-Ameritech's systems are severely constrained and on the brink of collapse is at odds with other portions of his testimony. Mr. Mitchell testifies that "the backend systems and architectures used by SBC-Ameritech are primarily based on large-scale mainframe processors... While these processors do require significant overhead and maintenance they are

[39] Mitchell Direct, at 12-13, 48.
[40] Mitchell Direct, at 12-13.
[41] SBC Investor Briefing, (Jan. 25, 2001), No. 223, at 4.

still considered an appropriate and technologically sound choice for processing large amount of data with speed and reliability."[42]

Finally, Mr. Mitchell's testimony is directly contrary to the sworn testimony of six different SWBT subject matter experts ("SMEs")[43] with direct day-to-day responsibilities for OSS. All six experts testified unequivocally in the Texas line sharing proceeding that they have never heard of any SWBT OSS failing due to too many users accessing the systems simultaneously.[44] Indeed, all of SWBT's SMEs agreed that designing SWBT's OSS with such a serious flaw would be a mistake, and agreed it would be "a bad way to design a database...and a system."[45] The only consequence of a large number of users on SWBT's OSS was reduced processing speed.[46] Even Ms. Jacobson herself admitted on cross examination in Texas that she thought it likely SBC's OSS has failsafe mechanisms in place to prevent system failures due to simultaneous user access.[47]

33. Q. MR. MITCHELL SPENDS A NUMBER OF PAGES DESCRIBING THE VARIOUS INTERFACES AND GATEWAYS THAT AMERITECH-ILLINOIS OFFERS CLECS. DO ANY OF THESE CAPABILITIES NEGATE THE NEED FOR DIRECT ACCESS?

A. No. Gateway access to SBC-Ameritech's OSS has serious limitations. The Ordering and Billing Forum ("OBF"), which designs national uniform interfaces,

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42 Mitchell Direct, at 35-36.

43 These SMEs are first and second level technical support staff who advise others within SWBT on OSS issues.

44 Texas Hearing Tr. (Jacobson), at 843:18-17; Rhythms Texas Exhs. 24 (V.W. Mueller Deposition, at. 23-25, 126), 25 (D. Schuessler Deposition, at 41-44, 88), 26 (R. Long Deposition, at 90-93, 98), 27 (D. Stimpfel Deposition, at 126,12,137), 28 (T.W. Stevens Depostion, at 88-91, 108), and 29 (D. Bergquist Deposition, at 13-15, 31-35, 107), provided as Attachment JA-2 to this testimony.

45 Texas Hearing Tr. (Jacobson), at 850:24-851:5; 851:14-24; Rhythms Texas Exhs. 26, 27.

46 Rhythms Texas Exhs. 24 (V.W. Mueller Deposition, at. 23-25, 126), 25 (D. Schuessler Deposition, at 41-44, 88), 26 (R. Long Deposition, at 90-93, 98), 27 (D. Stimpfel Deposition, at 126,12,137), 28 (T.W. Stevens Depostion, at 88-91, 108), and 29 (D. Bergquist Deposition, at 13-15, 31-35, 107), provided as Attachment JA-2 to this testimony.

47 Texas Hearing Tr. (Jacobson), at 890:11-18.

is not set up specifically to deal with advanced services or line shared services. Thus, in most cases, the OBF interfaces do not contain a sufficient number of fields to return all of the loop provisioning information needed to provision DSL services. Thus, even though SBC-Ameritech may make available a variety of interfaces and gateways, those access methods will not provide CLECs with the same scope of provisioning information that direct access would provide. Further, gateway or interface access does not allow CLECs access to the wide variety of OSS functionality that I describe above.

Finally, the availability of gateways and interfaces does not change the fact that SBC-Ameritech's own employees have such access. Any failure to provide CLECs with direct access to all provisioning information in SBC-Ameritech's back end systems and databases appears to me to be clearly discriminatory, and therefore inconsistent with the Telecommunications Act.

34. Q. **MR. MITCHELL STATES THAT BOTH ILLINOIS AND THE FCC HAVE ENCOURAGED THE USE OF GATEWAYS FOR CLECS. DOES THIS NEGATE THE NEED FOR DIRECT ACCESS?**

A. No. Whether the FCC or ICC has endorsed the use of gateways for CLECs to access OSS information is not relevant. To the best of my knowledge, neither the ICC nor the FCC has stated that gateways are the sole means of access that ILECs must provide to their OSS. Further, I wonder whether the FCC and ICC were aware of the direct access capabilities available to ILEC employees when they endorsed gateways. If not, it seems unreasonable to me to imply that the regulators' decisions in any way address ILEC obligations to provide direct access in a non-discriminatory manner to itself and CLECs.

VI. OSS COSTS

35. Q. CAN YOU THINK OF ANY FINANCIAL REASON THAT AMERITECH-ILLINOIS WOULD NOT WANT CLECS TO DIRECTLY ACCESS PROVISIONING INFORMATION THEMSELVES?

A. Yes. Mr. Waken states that if CLECs directly accessed provisioning information they would be performing "the same manual loop qualification process that would be performed by SBC-Ameritech engineering personnel for CLECs when the mechanized process does not bring back the necessary loop qualification information."[48] SBC-Ameritech wants to charge CLECs $1.98 per minute for such engineering look ups – a potentially very lucrative business for the ILEC. One must wonder whether SBC-Ameritech's true motivation in urging the Commission to deny CLECs direct access to their OSS back office systems and databases is to protect this source of revenue.

36. Q. ON PAGES 29-33 OF HIS TESTIMONY, MR. WAKEN ASSERTS THERE WOULD BE MILLIONS OF DOLLARS IN CHANGES TO AMERITECH-ILLINOIS' OSS REQUIRED TO SUPPORT COLLOCATION OF CLEC LINE CARDS IN THE PROJECT PRONTO ARCHITECTURE. IS HIS ASSERTION CORRECT?

A. It is impossible to evaluate fully the validity of Mr. Waken's assertions because he provides no cost support for the OSS modifications he speculates might be necessary to support the inventorying of Project Pronto. By his own admission, Mr. Waken's estimates "have not been validated by any of SBC's software vendors" and thus are merely Mr. Waken's guesses. It appears to me that Mr. Waken's guesses are overstated. I am aware that SBC already has the capability

[48] Waken Direct, at 18:14-17.

to inventory different types of line cards used to provide different services (e.g. POTS, ISDN etc).[49] SBC's OSS already can inventory **BEGIN CONFIDENTIAL*** ***END CONFIDENTIAL**. Thus, in order to inventory and track CLEC owned line cards, it appears to me that SBC would need only to add an additional field to its existing OSS to indicate the owner of the line card in addition to the information already recorded and stored about line cards. Adding one field of information seems to me to be a rather straightforward work effort that should cost no where near the $100 million guess of Mr. Waken.

37. Q. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes. However, I reserve a right to supplement my direct testimony should additional relevant information become available.

[49] Rhythms Texas Discovery, Bates 009986-009989.